

Honorable Thomas S. Zilly

United States District Court
Western District of Washington
At Seattle

Peajai Ely,

Plaintiffs,

vs.

Holland America Line N.V., Hal Antillen
N.V., and Holland America Line Inc.,

Defendants.

No. 18-cv-01690-TSZ

**Joint Stipulation and Order
for CR 35 Exam**

I. Stipulation

The parties hereto as evidenced by the signatures of their undersigned counsel have stipulated that Defendants may conduct a CR 35 examination in the manner set forth below.

Dated this 29th day of October, 2019.

Dated this 29th day of October, 2019.

Webb Law Firm
Db a Seattle Maritime Attorneys

Maltzman & Partners, P.A.

s/GORDON WEBB

s/ Edgar R. Nield, per authority

Gordon C. Webb, WSBA # 22777
225 106th Avenue NE

Edgar R. Nield, WSBA #53297 & CASB
#135018

Bellevue, Washington 98004
Telephone 425.454.3800
Facsimile 425.307.6446
E-mail Gordon@webblawfirm.net
Attorney for Plaintiff

Physical Address: 506 2nd Avenue, # 1400
Seattle, WA 98104
Mailing Address: 679 Encinitas Blvd #201
Encinitas, CA 92024
Telephone: 760.942.9880
Facsimile: 760.942.9882
E-mail:
jeffrey@maltzmanpartners.com
E-mail: edn@maltzmanpartners.com
Attorneys for Defendants

II. Finding

After reviewing the case record to date and the basis for the order, this Court finds that the stipulated order of the parties as set forth below should be GRANTED.

III. Order for CR 35 Exam

IT IS HEREBY ORDERED that

1. The Plaintiff Peajai Ely shall submit to a CR 35 examination by Dr. Lawrence C. Murphy on **November 15, at 2:00 PM** (check-in) at the offices of NW Physical Medicine, 801 Pine Street, Suite 100 Seattle, WA 98101 (Telephone: 206-501-2106). The exam shall last no longer than 2 hours, including check-in. Any change to the date or time will be provided by Defendants to Plaintiff as soon as possible, but within 48 hours of Defendants' notification of same;

2. Plaintiff may have an independent observer present at the examination who may audio record the exam; however, any observer will not interfere with the examination. Defendants will not have a representative present at the exam;

3. Defendants' counsel shall keep the examiner's report(s) confidential, except for purposes of defending this case; specifically, Defendant's counsel shall not disclose the

1 report(s) to any other person or insurer other than counsel's client. At the end of the case,
2 Defendants' counsel shall destroy copies of all reports and related documents, including
3 Plaintiff's medical records;

4 4. The scope of the examination shall be limited to such matters as may be
5 necessary to evaluate the Plaintiff's condition which is in controversy, to wit the nature and
6 extent of injuries suffered by Plaintiff in the cruise ship incident which is the subject of this
7 lawsuit;

8 5. The examiner shall submit his entire written report to Defendants' counsel
9 within 20 days of completion of the exam. Counsel for Defendants shall send a copy of the
10 report to Plaintiff's counsel within 10 days after receipt by Defense counsel;

11 6. Should Dr. Murphy not show up for the exam without a good faith basis no
12 other exam will be allowed;

13 7. The examiner shall do no invasive tests which pierce the skin; nor shall the
14 examiner conduct any x-rays or imaging studies;

15 8. No psychological or psychiatric tests may be given;

16 9. The examiner shall ask no questions regarding negligence or legal liability;
17 however, the examiner may inquire into the effect of the impact upon the Plaintiff's body
18 leading to injury, and Plaintiff's medical history and treatment prior to the subject accident;

19 10. The report of the examiner shall be detailed in writing and set forth separately

20 a. The examiners findings,

21 b. The results of all tests given,

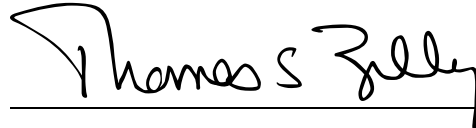
22 c. The examiner's diagnosis, and

1 d. The examiner's conclusions, including all opinions on subjects requested
2 by Defense counsel.

3 11. In the event of a trial of this matter, the examiner shall be limited to testifying as
4 to matters contained in his report disclosed to Plaintiff, and in rebuttal to medical testimony and
5 evidence presented at trial.

6 12. Defendants will cover Plaintiff's travel cost at the standard IRS medial mileage
7 rate, and pay for any parking cost associated with attending the exam.

8 **DATED this 30th day of October, 2019.**

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11 Thomas S. Zilly
12 United States District Judge

13 **Presented By:**

14 *s/Gordon Webb*

15 _____
16 GORDON C. WEBB, WSBA # 22777
17 225 106th Avenue NE
18 Bellevue, WA 98004
Telephone: 425.454.3800
Fax: 425.307.6446
E-mail: gordon@webblawfirm.net
Attorneys for Plaintiff

19 **Approved by, Copy Received:**

20 *S/ Edgar R. Nield, PER AUTHORITY*

21 _____
22 Edgar R. Nield, WSBA #53297 & CASB #135018
23 Jeffrey B. Maltzman, WSBA#52051 & CASB#131758
Physical Address: 506 2nd Avenue, Suite 1400

1 Mailing Address: Seattle, WA 98104
2 679 Encinitas Blvd #201
3 Encinitas, CA 92024
4 Telephone: 760.942.9880
5 Facsimile: 760.942.9882
6 E-mail: jeffrey@maltzmanpartners.com
7 E-mail: edn@maltzmanpartners.com
8 Attorneys for Defendants
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